

INTERGOVERNMENTAL RELATIONS ADVISORY COMMISSION-PUBLIC HEARING 1-23-2008

TESTIMONY DELIVERED BY BEAU BATEMAN, CHAIRMAN BRENNA TOWNSHIP-GRAND FORKS COUNTY

A TOWNSHIP PERSPECTIVE

A) Reasonable Growth growth planning is necessary indexed to city size and 10 year population trends using GF website and resident growth, it would take 115 years to fill in their 2 mile jurisdiction GF ET is 300% of their incorporated footprint Fargo ET is 85% of their existing footprint

B) Governance Wisconsin zoning board 3 city/ 3 rural with a majority required for public hearing, and majority required for adopting ET North Carolina requires county approval to initiate ET expansion ballot box provides accountability

C) Restricted Development GF County 16 homes/qtr GF City 4/qtr township loses revenue as the city gains revenue pushes new township development farther out Ghost platting using GPS Irony of Rural Water district

D) Landfill GF won't permit a dump where their voting citizens live, but they made it a permitted use where the folks have no vote City ownership removes tax base, road deterioration may result

E) City Laws applications of lot size, external architectural requirements city zoning violation penalties applied through county taxes

5th Amendment

"No person shall be deprived of life, liberty or property without due process of law, nor shall private property be taken for public use without just compensation..."

14th Amendment

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law"

Private property is thought of in terms of a bundle of rights defined and protected by the governing body including 1) controlled use of it 2) benefit from ownership 3) ability to exclude 4) right to transfer or sell

Extrateritorial Zoning

To: Advisory Commission on Intergovernmental Relations

Prior to this legislative session, cities over 25,000 in population were granted 4 mile ET authority (passed in late 1990's after several runs). Qualified and using 4 miles are Fargo, Bismarck, and Grand Forks. Minot qualifies but chooses to use 2 miles.

Problem: Growth in most areas around these cities will not fill a 4 mile ET zone for over 100 years, given present population trends and land usage. Rural Dakotan's private property rights are suspended until the city reaches the area.

Solution: Use reasonable planning goals (20-30 years) combined with predictable population growth to determine how much land to take.

Problem: Regulation without representation. Rural folks cannot vote for the people passing laws on their homes and land.

Solution: County representatives (elected by all citizens) work with city representatives to reach mutually beneficial zoning solutions.

Problem: Permanent structures potentially located in future right-of-way.

Solution: City planners working with County planners through "ghost platting" using GPS to precisely site buildings on rural lots and not jeopardize future city plans.

Problem: Rural water district investment in infrastructure (anticipating rural growth) is lost when cities restrict rural growth (ie Grand Forks only permits 4 homes on 160 acres).

Solution: Ghost platting with GPS to place structures in development-friendly locations, so rural residents can join the city system in the future if they choose.

Problem: Retroactive chaos from a reduction to a 2 mile ET.

Solution: Minot uses 2 miles; Grand Forks only now approving their 4 mile zoning codes; Bismarck and portions of Burleigh County share the same planning staff; Fargo's northern ET is currently 1 mile and the southern ET is 3.5 miles. Transitioning from more restrictive to less restrictive should be as manageable as the original switch.

The legislature provided a well-intentioned tool that has been used bluntly on the rural citizens of North Dakota. It is appropriate for that same body to sharpen the tool, reinstate the rights of its citizens, and provide the opportunity for townships and counties to work with cities on a level playing field to develop appropriate zoning codes.

Reducing ET to 2 miles, and making this ruling retroactive, has the support of the North Dakota Township Officer's Association, the Landowners' Association of North Dakota and the North Dakota Farm Bureau.